

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARCUS DANIEL CHAVARRIA,

No. C 01-02242 SI

Petitioner,

**ORDER RE: AMENDMENT OF HABEAS
PETITION**

v.

JIM HAMLET,

Respondent.

On March 24, 2003, this Court denied Chavarria's pending petition for writ of habeas corpus. On April 29, 2003, the Court issued a certificate of appealability as to certain issues raised in the petition. Petitioner appealed to the United States Court of Appeals for the Ninth Circuit, where he evidently requested either remand or dismissal in order to amend his original habeas petition to assert a claim based on ineffective assistance of appellate counsel. On June 27, 2007, the Ninth Circuit issued a judgment dismissing the appeal and remanding to this Court, in order that petitioner could request permission to amend his petition and this Court could "determine in the first instance whether amendment should be allowed."

Since that time, neither petitioner nor his attorney has filed any motions or requests in this Court regarding the amendment of the habeas petition, and the Court has no additional knowledge of petitioner's request or of the nature or timeliness of the claim he wishes to add. **The Court therefore orders petitioner to file a motion for leave to amend his habeas petition by August 26, 2008, should he still wish to amend. In the event petitioner does not file an appropriate motion by that date, the Court will dismiss this case.**

IT IS SO ORDERED.

Dated: August 4, 2008



SUSAN ILLSTON
United States District Judge